

Free State, South Africa

Free State Arts and Culture Council Act, 2007

Act 7 of 2007

Legislation as at 7 December 2007

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Free State South Africa

Free State Arts and Culture Council Act, 2007

Act 7 of 2007

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and includes any amendments published up to 3 May 2024.]*

(English text assented to and signed by the Premier.)

ACT

To establish a juristic person known as the Free State Arts and Culture Council; to determine its objects, functions and the manner of its operations; to regulate its staff matters and financial matters; and to provide for matter connected therewith.

BE IT ENACTED by the Provincial Legislature of the Free State Province as follows:-

1. Definitions

In this Act, unless the context indicates otherwise—

“**chairperson**” means the chairperson of the Council;

“**Council**” means the Free State Arts and Culture Council established in terms of [section 2](#);

“**Department**” means the Department responsible for Arts and Culture in the Province;

“**Head of Department**” means the Head of the Department responsible for Arts and Culture in the Province;

“**MEC**” means the Member of the Executive Council responsible for Arts and Culture in the Province;

“**member**” means member of the Council;

“**Province**” means the Free State Province;

“**the arts**” includes all forms of music, dance, drama, theatre, craft, visual art, literature and community art; and

“**this Act**” includes the Regulation.

2. Establishment of the Free State Arts and Culture Council

A juristic person known as the Free State Arts and Culture Council is established.

3. Objects of the Council

- (a) To encourage and provide opportunities for persons to practice the arts;
- (b) To promote the appreciation, understanding and the enjoyment of the arts;
- (c) To promote the general application of the arts in the community;
- (d) To uphold and promote the right of persons to freedom in the practice of the arts;

- (e) To address historical imbalances in the provision of infrastructure and funding for the promotion of the arts;
- (f) To develop and promote the arts and encourage excellence in performance and expression in the artworks and forms; and
- (g) To encourage and recognise innovations and creativity in all art works and forms.

4. Composition of the Council

- (1) The Council consists of eleven (11) members appointed by the MEC.
- (2) Every district municipality in the Province as defined in the Local Government: Municipal Structures Act, 1998 ([Act No. 117 of 1998](#)) must nominate one (1) person to be appointed to the Council.
- (3) Subject to subsections (2) and (5), the MEC must request nominations for the other members of the Council in at least one newspaper circulating in the Province and in the *Provincial Gazette*.
- (4) Members of the Council must have special knowledge or experience in one or more of the following fields:
 - (i) Music;
 - (ii) Dance;
 - (iii) Theatre;
 - (iv) Film and video;
 - (v) Literary arts;
 - (vi) Spoken words arts;
 - (vii) Visual arts;
 - (viii) Crafts;
 - (ix) Community Arts and Culture;
 - (x) Arts Education;
 - (xi) Technical knowledge of the arts;
 - (xii) Law;
 - (xiii) Finance; and
 - (xiv) Management.
- (5) The Head of Department is an *ex officio* member of the Council.
- (6) The MEC must appoint the chairperson among the members of the Council.
- (7) No person shall be appointed as a member of the Council –
 - (a) if he or she is declared insolvent and is not rehabilitated;
 - (b) if he or she is declared unfit by a court of law to manage his or her own affairs;
 - (c) is convicted and sent to prison without an option of a fine; and
 - (d) unless that person is a South African citizen permanently resident in the Province.
- (8) The composition of the Council shall be broadly representative of the gender, language and community composition of the Province.

- (9) The names of the members of the Council and the dates of the commencement of their terms of office shall as soon as possible after the constitution of the Council be made known by the MEC by notice in the *Provincial Gazette*.

5. Powers of the Council

In order to achieve its objects, the Council may —

- (1) render financial support, advice and information to persons, organisations and institutions that may approach it for that purpose;
- (2) investigate and determine the need, support, advice and information for persons, organisations and institutions;
- (3) promote and encourage equity in arts and culture;
- (4) conduct research into various fields of arts;
- (5) establish, compile and maintain databases of persons, organisations, institutions, equipment and facilities connected with the arts;
- (6) raise funds with the written consent of the MEC to promote the objects of this Act;
- (7) enter into agreements with persons, organisations or institutions with written consent of the MEC;
- (8) purchase, acquire, possess, hire, alienate or let, pledge or encumber movable property and with the approval of the MEC of Arts and Culture, with the concurrence of the MEC for Treasury, purchase, acquire, possess, hire, alienate or let pledge or encumber, immovable property;
- (9) advise the MEC on matters and policy regarding arts and culture;
- (10) publish information on its objects and functions;
- (11) report quarterly on its activities to the MEC; and
- (12) perform such other functions that are necessary to achieve the objects of this Act.

6. Term of office of members of the Council and filling of vacancies

- (1) A member shall be appointed for a period of five (5) years.
- (2) A member whose term of office has expired is eligible for reappointment, but may not serve more than two (2) terms of office.
- (3) Any vacancy on the Council shall be filled by appointment in the manner in which the member who vacates the office was required to be appointed, and any member so appointed shall hold office for the unexpired portion of the period for which the member who vacates the office was appointed.

7. Termination of office of members of the Council

- (1) The MEC may terminate a member's membership if—
 - (a) he or she absents himself or herself from two (2) consecutive meetings without a written apology accepted by the Council;
 - (b) a member is declared insolvent and is not rehabilitated;
 - (c) a member is declared unfit by a court of law to manage his or her own affairs;
 - (d) a member resigns by written notice addressed to the MEC;
 - (e) a member is convicted and sent to prison without an option of a fine; and
 - (f) a good cause is shown to terminate a member's membership.

- (2) The MEC may dissolve the Council on any reasonable grounds.

8. Meetings of the Council

- (1) The Council must meet at least once in every three (3) months at a place and time decided by the Council.
- (2) The chairperson may convene a special meeting and he or she shall, upon written request signed by the majority of members, convene a special meeting, when necessary, to deal with urgent or outstanding matters that could not be dealt with during the meetings referred to in subsection (1).
- (3) The quorum of the meeting shall be at least 50 percent plus one of the Council's members present at that meeting.
- (4) The decision of the Council is by way of consensus, but if consensus is not reached, members must vote and if the majority of members vote in favour of the decision, it will be the decision of the Council.
- (5) The chairperson has a casting and a deliberative vote.
- (6) Members of the Council who are not in the full-time service of the State or who are in the full-time service of the State, but who have no access to allowances, subsistence and travelling expenses, may, in respect of their services, be paid reasonable allowances and subsistence and travelling expenses as determined by the MEC with the concurrence of the MEC responsible for finance.

9. Committees of the Council

- (1) The Council may establish one or more committees which may perform the functions of the Council as may be determined by the Council.
- (2) The Council may dissolve or reconstitute the committees established in terms of subsection (1).

10. Financial matters of the Council

- (1) In the execution of its functions, the Council must utilise its funds for the purposes of achieving the objects of this Act.
- (2) The Council must adhere to the provisions of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)).

11. Administrative support

The Department must provide administrative support to the Council.

12. Regulations

- (1) The MEC may, by notice in the *Provincial Gazette*, make regulations regarding other matters that may be necessary or expedient in order to achieve the objects of this Act.
- (2) Not less than 1 month before any regulation is made under this section, the MEC shall cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish any comments thereon or any representation which they may wish to make in regard thereto, to the MEC on or before a date mentioned in the notice.
- (3) The provision of subsection (2) shall not apply in respect of any regulation which, after the provision of that subsection have been complied with has been amended by the MEC, in consequence of comments or representations received in pursuance of such compliance.

13. Repeal of laws and savings

- (1) The laws mentioned in the Schedule are hereby repealed to the extent indicated in the second column of the Schedule.
- (2) A proclamation, regulation, notice, order, authority, permission or document issued, made, promulgated, given or granted and an action taken under a repealed law in subsection (1), shall, if not inconsistent with the provisions of this Act, be deemed to have been issued, made, promulgated, given, granted or taken under the corresponding provisions of this Act.

14. Short title

The Act is called the Free State Arts and Culture Council Act, 2007.

Laws repealed

No. and Year of Act	Short title	Extent of repeal
Act No. 35 of 1983	Culture Promotion Act	The whole
Act No. 65 of 1989	Cultural Affairs Act (House of Assembly)	The whole